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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,262	03/29/2004	John Palker	EMC-014 (EMC-04-048)	2769
60567	7590	09/28/2006	EXAMINER	
GUERIN & RODRIGUEZ, LLP 5 MT. ROYAL AVE. MARLBORO, MA 01752			HANSEN, JAMES ORVILLE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/812,262

Applicant(s)

PALKER ET AL.

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/24/06 & 7/21/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 5-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 5-8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 24, 2006.
2. Applicant's election with traverse of the Group IV species in the reply is acknowledged. The traversal is on the ground(s) that the combination as claimed in claim 5 sets forth the details of the subcombination as separately claimed in claim 1. This is not found persuasive because applicant is arguing relative to distinct inventions as opposed to patentably distinct species, which is the requirement previously set forth [requirement was between distinct species i.e., embodiments of the invention, as opposed to a requirement between distinct inventions]. As such, since applicant did not submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case, the requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1, the phrase "the cabinet rack" lines 7 & 12, does not have a proper antecedent basis. Consequently, the remaining claims are rejected since they are dependent upon an indefinite claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 & 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmitt [U.S. Patent No. 6,201,702]. Schmitt (figures 1-4) teaches of a tray (fig. 2) having a front end (front) and a back end (back), comprising: a base (24b) sized for supporting a unit of electronic equipment; a back wall (inherent – partially represented in fig. 2) extending perpendicularly from the base at the back end of the tray; and opposing side walls (19, 20) spatially separated by the base, each side wall extending from the front end to the back end of the tray to meet the back wall, each side wall having a flange (30a, 30b on respective side walls) at the front end capable of attaching the tray to a mounting rail of a cabinet rack, the flange extending perpendicularly to that side wall away from the base (fig. 2), each side wall having at least one upper rail guide (viewed as the upper rail section of (26a, 28a)) and at least one lower rail guide (viewed as the lower rail section of (26a, 28a)) extending laterally from that side wall, the at least one lower rail guide being spatially separated from and opposite to the at least one upper rail guide, the upper and lower rail guides are capable of slidably engaging a portion of a side rail when the tray is installed in a cabinet rack, wherein the at least one upper rail guide and the at least one lower rail guide of each side wall has a horizontal section (viewed as the horizontal sections of each of the guides) extending laterally from that side wall, the horizontal sections

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opposing each other and being spatially separated such that a portion of a side rail is capable of fitting closely in between the horizontal sections.

7. Claims 1 & 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Brunel et al., [U.S. Patent No. 5,921,644]. Brunel (figures 1-14) teaches of a tray (fig. 1) having a front end (front) and a back end (back), comprising: a base (14) sized for supporting a unit of electronic equipment; a back wall (viewed as the small back wall upstanding from the rear of the base as depicted in fig. 1) extending perpendicularly from the base at the back end of the tray; and opposing side walls (12, 13 – more specifically elements (16) of 12 & 13) spatially separated by the base, each side wall extending from the front end to the back end of the tray to meet the back wall (so far as broadly recited – it is noted that the claim does not positively attach or connect the side walls to the back wall), each side wall having a flange (viewed as the perpendicularly extending flange element as shown in figs. 1-2) at the front end capable of attaching the tray to a mounting rail of a cabinet rack, the flange extending perpendicularly to that side wall away from the base (figs. 1-2), each side wall having at least one upper rail guide (15) and at least one lower rail guide (17) extending laterally from that side wall, the at least one lower rail guide being spatially separated from and opposite to the at least one upper rail guide, the upper and lower rail guides are capable of slidably engaging a portion of a side rail when the tray is installed in a cabinet rack, wherein the at least one upper rail guide has an upwards-facing lip (viewed as the upper rear stepped portion of 15 so far as broadly recited) and the at least one lower rail guide has a downwards-facing lip (viewed as the lower front stepped portion of element 17 so far as broadly recited), the upwards-facing and

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downwards-facing lips are capable of simultaneously sliding into respective grooves of a portion of a side rail when the tray is installed in a cabinet rack.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harwell [U.S. Patent No. 6,142,590] in view of Klakovich [U.S. Patent No. 3,133,768]. Harwell (figures 1-18B) teaches of a tray (fig. 17) having a front end (front) and a back end (back), comprising: a base ("bottom" of tray) sized for supporting a unit of electronic equipment; a back wall ("rearward end") extending perpendicularly from the base at the back end of the tray; and opposing side walls ("sides" of the tray) spatially separated by the base, each side wall extending from the front end to the back end of the tray to meet the back wall, each side wall having a flange (see fig. 17 – elements 40 & 42 project from the flanges) at the front end capable of attaching the tray to a mounting rail of a cabinet rack, the flange extending perpendicularly to that side wall away from the base (fig. 17), each side wall having at least one upper rail guide (denoted as 192); and a tab (214) projecting perpendicularly from the base of the tray to partition the base into two sections (viewed as forward and rearward sections – so far as broadly recited). Harwell teaches applicant's inventive claimed structure as disclosed above, but does not show a lower rail guide spaced from the upper rail guide. Klakovich (figures 1-16) is cited as an evidence reference to show the known

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use of upper and lower rail guides (40) extending laterally from a side wall, the at least one lower rail guide being spatially separated from and opposite to the at least one upper rail guide, the upper and lower rail guides are capable of slidably engaging a portion of a side rail when a tray is installed in a cabinet rack, wherein the at least one upper rail guide has an upwards-facing lip (39) and the at least one lower rail guide has a downwards-facing lip (39), the upwards-facing and downwards-facing lips are capable of simultaneously sliding into respective grooves of a portion of a side rail when the tray is installed in a cabinet rack, wherein the at least one upper rail guide and the at least one lower rail guide of each side wall has a horizontal section (note fig. 4) extending laterally from that side wall, the horizontal sections opposing each other and being spatially separated such that a portion of a side rail is capable of fitting closely in between the horizontal sections. As such, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the rail guide of Harwell so as to incorporate the rail guide as taught by Klakovich because this substitution (one rail guide embodiment for another rail guide embodiment where both guides function to linearly transfer a tray or chassis) would enhance the sliding capabilities of Harwell's tray since the Klakovich rail would afford greater stability since both the top and bottom edges of the rail guide would be in contact with a mating slide guide thereby enhancing the rail guide & mating element relationship due to the positive contact provided.

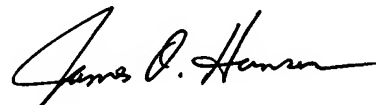
**Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schmid, Moore et al., Wang et al., Rumney, Beseth et al., and Liu describe sliding tray structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen  
Primary Examiner  
Art Unit 3637

JOH  
September 22, 2006